WHEN AI FIXES PRICES: THE NEED FOR A NEW LEGAL FRAMEWORK FOR ALGORITHMIC COLLUSION IN INDIA

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ABSTRACT

Artificial Intelligence (AI) is rapidly becoming a part of modern business. Companies use algorithms to decide prices, understand customer behaviour, predict demand, monitor competitors and improve their business decisions. These technologies can make markets more efficient and can provide benefits to businesses and consumers. At the same time, the increasing use of AI creates new challenges for competition law.

One such challenge is algorithmic collusion. In simple words, algorithmic collusion may arise when pricing algorithms used by competing businesses result in coordinated or similar prices, even when there is no traditional agreement or direct communication between the businesses. This creates an important question for competition law: if a computer program or AI system produces an anti-competitive result, who should be legally responsible?

The Indian competition law framework is mainly based on the Competition Act, 2002. Section 3 deals with anti-competitive agreements, while Section 4 deals with abuse of dominant position. The law can potentially apply to certain forms of algorithm-assisted anti-competitive conduct. However, autonomous algorithmic coordination creates difficult questions regarding agreement, intention, evidence, responsibility and accountability. These problems become more complicated when AI systems learn from market information and change prices automatically.

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The Competition Commission of India (CCI), in its 2025 Market Study on Artificial Intelligence and Competition, recognised AI-facilitated collusion as an emerging competition concern. The study also noted that pricing algorithms may facilitate coordination without traditional communication between competitors.

This paper examines whether the existing Indian competition law framework is sufficient to deal with algorithmic collusion. It studies the concept of algorithmic collusion, its different forms, the challenges faced by competition authorities, and the lessons that can be taken from international developments. The paper argues that India does not necessarily need an entirely separate competition statute, but it requires clearer legal principles, regulatory guidance, technical investigation capacity and rules relating to accountability and transparency of high-risk pricing algorithms.

Keywords: Artificial Intelligence, Algorithmic Collusion, Competition Law, Price Fixing, Pricing Algorithms, Digital Markets, CCI, Competition Policy, India.

1. INTRODUCTION

Competition is an important part of a healthy market. When businesses compete with each other, consumers generally get more choices, better quality and competitive prices. Competition also encourages businesses to innovate and improve their products and services.

The Competition Commission of India explains that the purpose of competition is to create a level playing field and protect consumer welfare. The Competition Act, 2002 prohibits anti-competitive agreements, abuse of dominant position and combinations that may adversely affect competition.

Technology has changed the way competition takes place. Earlier, companies generally depended on human employees to study competitors and decide prices. Today, many businesses use software and algorithms to perform these activities automatically.

For example, an online seller may use an algorithm that continuously checks the prices of competitors. If another seller reduces the price of a product, the algorithm may immediately reduce its own price. If the competitor increases the price, the algorithm may also increase its price.

At first sight, this may appear to be normal competition. However, the situation becomes legally difficult when algorithms repeatedly respond to one another in a manner that results in higher or coordinated prices.

The problem becomes even more complex when AI systems learn from experience. A sophisticated AI system may identify that aggressive price competition reduces profits and may therefore learn to maintain a particular pricing strategy. The competing algorithm may learn a similar strategy.

The OECD has recognised that algorithms can potentially make collusion easier because they can monitor competitors continuously, react quickly to changes and process large amounts of market information.

Therefore, the traditional idea of a cartel may no longer always look like two business executives sitting together and deciding prices. In the digital economy, coordination may take place through software, common algorithms, data systems or automated decision-making.

This paper focuses on this emerging problem from an Indian competition-law perspective.

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2. MEANING OF ALGORITHMIC COLLUSION

Algorithmic collusion means a situation where algorithms used by competing businesses contribute to coordinated market behaviour, particularly coordinated pricing.

An algorithm is basically a set of computer instructions designed to perform a task. In business, algorithms can be used to:

- decide prices;
- monitor competitors;
- forecast demand;
- manage inventory;
- identify consumers;
- recommend products;
- change prices automatically; and
- maximise profits.

Algorithmic collusion becomes a competition concern when the use of such systems reduces genuine competition.

Simple example

Suppose there are three online sellers:

Seller A – ₹1,000
Seller B – ₹1,000
Seller C – ₹1,000

All three use pricing algorithms.

Seller A's algorithm observes Seller B and Seller C.

Seller B's algorithm does the same.

Seller C's algorithm also monitors the market.

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If each algorithm learns that lowering the price causes a reduction in profits, they may continue maintaining a high price.

There may be no telephone call, meeting, email or written agreement between the sellers.

The difficult question is:

Can competition law treat this situation as collusion?

This is the central problem examined by this paper.

3. TYPES OF ALGORITHMIC COLLUSION

Algorithmic collusion is not one single phenomenon. It can take different forms.

3.1 Human-directed algorithmic collusion

In this situation, human beings deliberately use an algorithm to implement an anti-competitive agreement.

For example, two competing companies may agree to maintain a particular price and use the same software to implement the agreement.

Here, the algorithm is simply a tool.

The basic anti-competitive conduct is still human-made.

This type of conduct is relatively easier to connect with traditional competition law.

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3.2 Hub-and-spoke algorithmic coordination

Here, several competitors may use the same third-party pricing software or platform.

For example:

Company A → Pricing Software ← Company B

Company C → Pricing Software ← Company D

If the common software uses commercially sensitive information from several competitors and facilitates coordination, it can create serious competition concerns.

The OECD has identified the use of common pricing software and third-party providers as an important issue in algorithmic competition.

3.3 Autonomous algorithmic collusion

This is the most difficult form.

Here, companies do not expressly instruct the algorithm to collude.

Instead, AI systems independently learn from market conditions and competitors' behaviour.

For example:

Algorithm A: “If I reduce my price, my profit decreases.”

Algorithm B: “If I reduce my price, my competitor also reduces its price.”

After repeated interactions, both algorithms may learn that maintaining higher prices gives better profits.

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No human being may have directly instructed the systems to coordinate.

This creates the most difficult legal question:

Can there be collusion without a human agreement?

4. EVOLUTION OF COMPETITION LAW IN INDIA

The Competition Act, 2002 is the main competition law in India.

The CCI explains that the Act deals mainly with three major areas:

1. anti-competitive agreements;
2. abuse of dominant position; and
3. combinations such as mergers and acquisitions.

For algorithmic collusion, Section 3 is particularly important.

Section 3 prohibits agreements that cause or are likely to cause an appreciable adverse effect on competition.

Section 3(3) deals with horizontal agreements between competitors and includes agreements relating to:

- price fixing;
- limiting production or supply;
- market allocation; and
- bid rigging.

The CCI notes that these categories are presumed to cause an appreciable adverse effect on competition, subject to the statutory framework.

The difficulty is that the traditional understanding of an "agreement" generally involves some form of arrangement, understanding or concerted action.

The question therefore arises:

What happens when algorithms coordinate without a conventional agreement?

5. PRESENT LEGAL POSITION IN INDIA

India should not be described as having no law applicable to algorithmic collusion.

The Competition Act, 2002 is broad enough to potentially address some forms of algorithm-assisted anti-competitive conduct.

For example, if two companies intentionally use algorithms to implement an agreement to fix prices, Section 3 can potentially apply.

However, the problem is much harder when the algorithms themselves independently produce coordinated results.

This creates a distinction between:

Algorithm used by humans to collude

and

Algorithms independently learning coordinated behaviour.

The first situation can be fitted more easily into existing competition law.

The second situation creates uncertainty regarding:

- agreement;
- intention;
- knowledge;
- attribution;
- evidence;
- responsibility; and

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- liability.

Therefore, the real regulatory gap is not the complete absence of competition law. The gap is the absence of sufficiently specific legal principles and regulatory guidance dealing with autonomous algorithmic coordination.

6. WHY ALGORITHMIC COLLUSION IS DIFFERENT FROM TRADITIONAL COLLUSION

Traditional cartel behaviour usually involves human decisions.

For example:

Company A's manager calls Company B's manager.

They discuss prices.

They agree to maintain prices.

There may be emails, documents, meetings or witnesses.

Evidence may therefore be available.

Algorithmic collusion can be different.

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The algorithm may:

- collect market information;
- analyse competitors' prices;
- predict their responses;
- change prices;
- learn from previous results; and

- continuously update its strategy.

The decision-making process may be difficult for even the company using the system to explain.

The OECD has described algorithmic systems as creating challenges because pricing decisions may involve complex or opaque processes.

Therefore, the traditional evidence model may not always work effectively.

7. THE "BLACK BOX" PROBLEM

One major issue is the black box problem.

In simple words, a black box means that we know what information went into a system and what result came out, but it may be difficult to understand exactly how the system reached that result.

For example:

Input: Competitor's price, customer demand, stock level and market information.

AI system

Output: Increase price from ₹500 to ₹650.

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The company may know the result but may not fully understand every factor that influenced the AI's decision.

This becomes important for competition authorities.

If prices of five competing companies become similar, the authority must determine:

Was there an agreement?

Was there communication?

Did the companies knowingly use a common algorithm?

Did the algorithm independently learn the strategy?

Was the result simply normal market competition?

These questions require both legal and technical investigation.

8. THE 2025 CCI MARKET STUDY ON AI AND COMPETITION

A significant development in India is the CCI's Market Study on Artificial Intelligence and Competition, released on 6 October 2025.

The study examined AI markets, AI ecosystems, market trends and potential competition issues.

The CCI identified AI-facilitated collusion among the emerging competition concerns.

The study specifically discusses algorithmic coordinated conduct and explains that AI algorithms can blur the line between explicit and tacit collusion. It notes that pricing algorithms may facilitate tacit coordination without an agreement or direct communication.

The study also identified concerns relating to:

- price discrimination;
- predatory pricing;
- entry barriers;

- exclusionary practices;
- reduced choice;
- lack of transparency; and
- entrenchment of dominance.

This development is important because it shows that the issue is no longer purely theoretical.

However, the CCI's approach also indicates that India is currently developing its response through market studies, advocacy, technical capacity and regulatory guidance rather than through a separate AI competition statute.

9. IMPACT ON CONSUMERS

Algorithmic collusion can directly affect consumers.

If competing businesses maintain artificially high prices, consumers may have to pay more.

For example, suppose three online travel platforms use algorithms that continuously monitor each other's prices.

If their systems avoid price reductions, consumers may see:

Actual competitive price: ₹4,000

Coordinated high price: ₹5,500

Even a difference of ₹1,500 can be significant for ordinary consumers.

Algorithmic systems can also create personalised pricing.

Two consumers searching for the same product may potentially receive different prices based on data such as:

- browsing behaviour;
- location;
- previous purchases;
- demand patterns; or
- other information.

The OECD has recognised that algorithmic pricing can increase efficiency but can also create concerns relating to price discrimination and consumer welfare.

10. IMPACT ON SMALL BUSINESSES

Algorithmic pricing can also affect small businesses.

Large companies may have:

- more data;
- better technology;
- greater computing capacity;
- specialised AI teams; and
- greater financial resources.

Small businesses may not have similar resources.

If major platforms increasingly depend on sophisticated AI systems, smaller competitors may find it difficult to compete.

This can increase barriers to entry.

The problem is therefore not limited to price fixing.

It can also affect the overall structure of the market.

11. ALGORITHMIC COLLUSION AND MARKET DOMINANCE

Algorithmic systems may also strengthen the position of large companies.

A company with a large amount of data can potentially develop better pricing and prediction systems.

More customers generate more data.

More data can improve the algorithm.

A better algorithm may attract more customers.

More customers then generate more data.

This creates a cycle:

More users → More data → Better AI → Better services → More users

This may create advantages for already-established firms.

The OECD's recent work on AI markets notes that structural risks can persist at different levels of the AI value chain, particularly where markets are concentrated and access to important inputs such as data or computing capacity is limited.

12. CHALLENGE OF PROVING COLLUSION

One of the biggest legal problems is evidence.

Competition authorities may need to establish:

1. What algorithm was used?
2. Who designed the algorithm?
3. Who provided the data?
4. What instructions were given?
5. What information was available to the algorithm?
6. Did the company know how the algorithm operated?
7. Did the company monitor the results?
8. Did the company benefit from the coordinated outcome?
9. Did the company take steps to prevent anti-competitive outcomes?
10. Was coordination intentional, foreseeable or completely autonomous?

These questions demonstrate that traditional evidence may need to be supplemented by technical evidence.

13. RESPONSIBILITY: WHO SHOULD BE LIABLE?

Suppose an AI system produces an anti-competitive outcome.

Who should be responsible?

Possibility 1: The company

The company using the algorithm may be responsible because it benefits from the system and controls its commercial decisions.

Possibility 2: The software developer

In some cases, the algorithm may be designed by an outside technology company.

Should the software developer be liable?

Not necessarily.

A developer may create a general-purpose tool without knowing how every customer will use it.

Possibility 3: The platform or intermediary

If a common platform provides pricing tools to competing businesses, questions may arise regarding its role in facilitating coordination.

Possibility 4: Shared responsibility

In certain cases, responsibility may be distributed among the company, software provider and intermediary depending on their knowledge, control and contribution.

Therefore, a future Indian framework should focus on role, knowledge, control and contribution, rather than automatically blaming the AI system itself.

14. RELEVANT CASE LAW AND INTERNATIONAL EXPERIENCE

14.1 United States – Topkins case

The Topkins matter is often discussed in the context of algorithm-assisted price fixing.

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Online sellers used pricing software to implement an agreement concerning prices.

The important lesson is that using software does not protect a cartel from competition law.

The software may simply become the mechanism through which an existing agreement is implemented.

14.2 United Kingdom – Trod/GBE case

The UK Competition and Markets Authority dealt with an online poster case involving the use of pricing algorithms.

The case demonstrates that businesses cannot avoid competition-law responsibility merely because software is used to implement anti-competitive conduct.

The important distinction is that such cases involve human conduct behind the algorithm.

14.3 Lessons for India

The international experience shows two different situations:

Human agreement + algorithm = existing competition law can potentially apply

but

Independent AI learning + coordinated outcome = much more difficult legal question

India needs clearer principles for the second situation.

The OECD has repeatedly examined this issue, including in its 2017 work on algorithms and collusion and its more recent 2025 work on algorithmic pricing.

15. ROLE OF THE CCI

The CCI has an important role in addressing emerging AI-related competition concerns.

Its functions should include:

15.1 Investigation

The CCI should develop technical capacity to investigate pricing algorithms.

15.2 Competition advocacy

Businesses should be informed about the risks of using AI for pricing.

15.3 Guidance

The CCI should provide clear guidance regarding:

- permissible algorithmic pricing;
- information sharing;
- common pricing software;
- competitor data;
- monitoring systems; and
- risk-management obligations.

15.4 Technical experts

The CCI may need economists, data scientists, AI experts and forensic technology specialists.

15.5 Regulatory cooperation

AI competition issues may overlap with other areas such as consumer protection, data protection and digital regulation.

Cooperation between regulators can therefore become important.

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16. DOES INDIA NEED A NEW ACT?

The answer requires careful consideration.

A completely new Competition Act only for AI may create unnecessary legal complexity.

The existing Competition Act already contains broad principles relating to anti-competitive agreements and abuse of dominance.

Therefore, instead of immediately creating a completely separate statute, India could consider a layered approach.

Layer 1 – Existing Competition Act

Use Sections 3 and 4 where existing legal principles clearly apply.

Layer 2 – CCI Guidelines

Develop specific guidelines on algorithmic pricing and collusion.

Layer 3 – Technical investigation

Create specialised technical capacity within the CCI.

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Layer 4 – Algorithmic compliance

Require businesses using high-risk pricing algorithms to maintain appropriate records.

Layer 5 – Accountability

Companies should be encouraged to establish internal systems to detect and prevent anti-competitive outcomes.

This approach may provide flexibility as technology changes.

17. PROPOSED LEGAL FRAMEWORK FOR INDIA

This paper proposes the following framework.

17.1 Define algorithmic collusion

Indian competition law should provide regulatory guidance explaining what is meant by algorithmic coordination and algorithmic collusion.

The definition should distinguish between:

- legitimate independent pricing;
- algorithm-assisted cartel behaviour;
- hub-and-spoke coordination; and
- autonomous algorithmic coordination.

17.2 Algorithmic competition impact assessment

Businesses operating in highly concentrated markets could conduct an internal assessment before deploying high-risk pricing algorithms.

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The assessment could examine:

- data sources;
- competitor information;
- pricing instructions;
- learning objectives;
- monitoring systems;

- possible discriminatory outcomes; and
- mechanisms for human intervention.

17.3 Record-keeping requirement

Businesses using high-risk pricing systems should maintain appropriate records of:

- algorithm design;
- major changes;
- data sources;
- pricing objectives;
- human instructions; and
- compliance reviews.

This would help the CCI investigate suspicious conduct.

17.4 Human accountability

Companies should not be allowed to argue that:

"The AI did it, therefore nobody is responsible."

The legal responsibility should remain connected to the enterprise's role in designing, selecting, controlling and using the system.

17.5 Common algorithm providers

If the same third-party pricing system is used by competing firms, additional competition

safeguards may be necessary.

Businesses should carefully assess whether the system:

- shares competitor information;
- uses commercially sensitive data;
- automatically aligns prices; or
- facilitates coordination.

17.6 Transparency

Complete disclosure of source code may not always be appropriate because of trade secrets.

Therefore, the law should seek meaningful regulatory transparency, rather than unlimited disclosure.

Authorities may need access to:

- relevant system documentation;
- data sources;
- model objectives;
- audit logs;
- pricing decisions; and
- explanations of important system changes.

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17.7 Whistle-blower protection

Employees who identify deliberate algorithmic manipulation should have appropriate channels for reporting such conduct.

18. BALANCING COMPETITION AND INNOVATION

Regulation should not stop businesses from using AI.

AI provides many benefits.

For example, algorithms can:

- reduce costs;
- improve inventory management;
- reduce waste;
- improve delivery;
- provide personalised services;
- help small businesses understand demand; and
- increase efficiency.

Therefore, every use of AI should not be treated as suspicious.

The objective of competition law should be to prevent harmful conduct while allowing innovation.

The OECD has also emphasised that algorithms can have both pro-competitive and anti-competitive effects.

Therefore, regulation should be risk-based rather than technology-based.

19. RESEARCH GAP

Existing literature has extensively discussed:

- AI and competition;
- algorithmic pricing;
- digital platforms;
- market dominance;
- data and competition; and
- algorithmic collusion.

The work of Ezrachi and Stucke is particularly important in explaining how algorithms and data can change competition in digital markets. Their book Virtual Competition specifically discusses algorithmic collusion and other competition concerns arising from the algorithm-driven economy.

International organisations such as the OECD have also examined algorithmic collusion and algorithmic pricing.

In India, the CCI's 2025 AI market study has now directly addressed AI and competition and identified algorithmic collusion as a concern.

However, there remains scope for detailed Indian legal research on the following question:

How should Indian competition law attribute responsibility when AI systems independently produce or facilitate coordinated pricing without a traditional human agreement?

This is the central research gap addressed by this paper.

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20. RESEARCH QUESTIONS

The paper addresses the following questions:

1. What is algorithmic collusion and how is it different from traditional cartel behaviour?

2. Can Section 3 of the Competition Act, 2002 effectively address algorithmic collusion?

3. What happens when competing AI systems independently learn to coordinate prices?

4. How can the CCI prove anti-competitive coordination when there is no direct human communication?

5. Who should be responsible for an anti-competitive outcome produced by an AI system?

6. Is India required to introduce a separate legal framework for algorithmic collusion?

7. What regulatory lessons can India learn from international competition-law developments?

8. How can India protect competition without discouraging AI innovation?

21. OBJECTIVES OF THE STUDY

The main objectives are:

- To understand the concept of algorithmic collusion.
- To examine the relationship between AI and competition law.
- To analyse the relevant provisions of the Competition Act, 2002.
- To identify the difficulties faced by the CCI in dealing with AI-based pricing.
- To study the problem of autonomous algorithmic coordination.
- To examine international approaches.
- To identify gaps in the Indian regulatory framework.
- To propose suitable legal and regulatory measures for India.

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22. HYPOTHESIS

Hypothesis:

The existing Indian competition law framework can address some forms of algorithm-assisted anti-competitive conduct, particularly where human beings deliberately use algorithms to implement an agreement. However, it may face significant difficulties in dealing with autonomous algorithmic collusion because traditional concepts of agreement, intention, evidence and responsibility may not adequately capture AI-driven coordination.

23. RESEARCH METHODOLOGY

This paper follows a doctrinal and analytical research methodology.

The study is based mainly on secondary sources, including:

- Competition Act, 2002;
- CCI materials;
- CCI market studies;
- books on competition law;
- academic articles;
- OECD reports;
- international competition-law materials;
- judicial decisions; and
- policy documents.

The research follows a comparative approach where appropriate to understand international developments and their relevance to India.

The paper does not treat every similarity in prices as proof of collusion. Algorithmic pricing can produce similar prices for legitimate reasons. The legal analysis therefore focuses on the circumstances in which algorithmic behaviour may actually reduce competition.

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24. FINDINGS

The study leads to the following findings:

First

AI is changing the way businesses compete.

Second

Algorithms can provide significant economic benefits and should not automatically be considered anti-competitive.

Third

Algorithms can also make coordination easier by increasing market transparency and allowing firms to react rapidly to competitors.

Fourth

The Competition Act can address certain forms of algorithm-assisted collusion.

Fifth

Autonomous algorithmic collusion creates a more difficult problem because there may be no traditional agreement.

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Sixth

Evidence and attribution are likely to become major challenges for competition authorities.

Seventh

The CCI has already recognised algorithmic collusion as an emerging concern through its

2025 AI and Competition Market Study.

Eighth

India would benefit from specific guidance and technical capacity rather than immediately assuming that an entirely separate competition statute is necessary.

25. SUGGESTIONS

The following measures are suggested:

1. CCI should issue dedicated guidelines on algorithmic pricing and collusion.

2. A specialised AI and competition unit may be developed within the CCI.

3. Competition officials should receive technical training in AI and machine learning.

4. Businesses using high-risk pricing algorithms should maintain appropriate audit records.

5. Companies should conduct internal competition-risk assessments before deploying sensitive pricing systems.

6. Third-party pricing software providers should be subject to appropriate competition compliance expectations.

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7. The CCI should develop technical methods for analysing algorithmic evidence.

8. Human accountability should remain an important principle.

9. Regulation should distinguish intentional algorithmic collusion from genuinely autonomous and unforeseeable outcomes.

10. The legal framework should be reviewed periodically because AI technology changes rapidly.

11. India should cooperate with international competition authorities to exchange knowledge and investigation methods.

12. Consumer welfare should remain a central consideration when evaluating algorithmic pricing.

26. CONCLUSION

Artificial Intelligence is changing the nature of competition. In the traditional market, competitors were human beings and business decisions were mainly made by people. In the digital market, algorithms increasingly make or influence these decisions.

This development creates a new competition-law challenge.

The most difficult situation is not where a company deliberately uses software to implement a traditional cartel. Existing competition law can potentially address such conduct. The greater challenge arises when competing algorithms independently learn that coordination or reduced price competition is more profitable.

In such a situation, there may be no meeting, telephone call, email or traditional agreement. Yet the final result may still be harmful to competition and consumers.

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India already has a general competition-law framework under the Competition Act, 2002. Therefore, the issue should not be described as a complete absence of law. Instead, India faces a need for clearer and more specific legal and regulatory guidance on algorithmic collusion.

The CCI's 2025 Market Study on Artificial Intelligence and Competition is an important step in this direction. The study recognises AI-facilitated collusion as an emerging concern and

examines the changing relationship between AI and competition.

The future approach should not be to stop businesses from using AI. The objective should be to ensure that AI remains a tool for innovation rather than becoming a tool for reducing genuine competition.

India therefore needs a balanced framework based on competition, transparency, accountability, technical expertise and consumer welfare.

The central principle should be simple:

AI may make business decisions faster, but technological automation should not become a way to escape competition law.

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